

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re: Refrigerant Compressors
Antitrust Litigation

Case No. 2:09-md-02042

Honorable Sean F. Cox
United States District Court

ORDER DENYING MOTION FOR DEFAULT JUDGMENT
WITHOUT PREJUDICE

Plaintiff General Electric Company (“GE”) filed suit against multiple defendants in Case No. 13-12638 in the United States District Court for the Western District of Kentucky. The case was transferred to this Court by the United States Judicial Panel on Multidistrict Litigation. (*See* Docket Entry No. 373). Thereafter, GE filed a Motion for Entry of Default Judgment (Docket Entry No. 378). Although the motion itself appears to ask the Clerk of the Court to enter a default, in the proposed order attached to it GE asks the Court to enter judgment in its favor and against Defendant ACC USA, LLC. As a result, the Clerk’s Office has taken no action on this motion.

“An entry of default and an entry of default judgment are two separate events or steps. The first step is the entry of default when it is shown, by affidavit or otherwise, that a defending party on a claim has failed to plead or otherwise defend. The second step is the entry of default judgment.” 46 Am. Jur. 2d *Judgments* § 233. The custom and practice in this Court is that a clerk’s entry of a default is a prerequisite to obtaining a default judgment from the district court. *See e.g., Dahill Management, LLC v. Moore*, 2009 WL 1664559 (E.D. Mich. 2009) (Wherein Chief Judge Gerald Rosen explained that “[t]his Court requires that the Plaintiff first obtain a

clerks's entry of default" before seeking a default judgment from the district court.).

The Court hereby ORDERS that GE's Motion is DENIED WITHOUT PREJUDICE. GE may seek entry of a default judgment after first filing a "Request for Clerk's Entry of Default,"¹ and obtaining the entry of a Clerk's Entry of Default as to Defendant ACC USA, LLC.

IT IS SO ORDERED.

S/Sean F. Cox

Sean F. Cox

United States District Judge

Dated: August 5, 2013

I hereby certify that a copy of the foregoing document was served upon counsel of record on August 5, 2013, by electronic and/or ordinary mail.

S/Jennifer Hernandez

Case Manager

¹A form Request for Clerk's Entry of Default can be found at the United States District Court for the Eastern District of Michigan's website.